G. R. S. 58

Previous references.

9.737-09 8131-34 B.9.12
R 7165 07 93-94

1913

(9.7)

Later references.

LR 413-14 81-22
LR Deh 1265-15-
L.R 235-42-1665

P 19E

File No. 69-13

Serial Nos. 1-3

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-3

Part B. for February 1914

SUBJECT.

Bakshi Tippayya's Family.

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1. Letr Dr 20-10-13 from Dhati Singrachar. States that certain property which he holds in mortgage may either be redeemed or the Govt may waive their claim to it.

2. From the Dy. Comr. Mysore Dt.

GPS—8,000—7-4-07

no 374 Dr 29-11-13

Submits in original the notice received from Dhati Singrachar and the draft of a reply

proposed to be given to him in reply together with the mortgage deed etc.

3 To the Dy Comr. Mysore dt.
No H3899 dt 27.2.14

Returns the copy of his draft to Singracha who approved by post & returns the mortgage deeds.

Bgl. pois
24.7.14

G.R.S. 11] 1912 1.

GENERAL AND REVENUE SECRETARIAT.

(~~L R~~)

NOTES.

P 69 of 13.

~~L R~~ File No. 4 13

FILE HEADING.

Notice from one Dhati Singaracher stating that certain property which he holds in mortgage may either be redeemed or the Govt may waive their Claim to it.

From Dhati Singaracher, No 194. Ramat Clas Arra Mysore

No. Petition Dated 20. 10. 13. Received 29. 10. 13.

Diary No. 3466	Enclos. - Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that the period of the mortgage of the property on the security of which & other properties Govt had advanced loan to the mortgagors has elapsed, & that as he chooses to institute a Suit for the recovery of the loan the Govt may either redeem the property or waive their claim to it.

NOTES AND ORDERS.

R In their order No 18025-7/R7 165 93 of 23. 4. 1894 Govt sanctioned a loan of Rs 30,000 to Bakshi Thippayya's family to enable them to redeem the family properties from encumbrances. The mortgage, which the petitioner re/

NOTES—First Sheet.

GPB—35,000—15-6-12

Serial No.

is one of the encumbrances mentioned in the order. But in a subsequent Order Govt. considered it advisable not to close up this transaction by paying the mortgage amount, but to refer the lien in the manner recommended by the then Dy. Comr of the Mysore District in his letter No. 95 dt 20.7.1894.

2 The cases regarding loans to encumbered Jahagirs are dealt with in Br II. This may be transferred to that Branch for disposal or they may be asked to make at what stage the local transaction stands & what course they advise to be taken in as regards the representation made by the petitioner.

Rules may be transferred to Br II.

Rules 9/VII/13 Transfd to Br II

Submitted 6/7/14

3. The merits of the case in regard to the rights and privileges of the mortgagee of

NOTE—Contn. sheet.

General and Revenue Secretariat. | G.7 File No. 69 of 1913-14

Serial No.

Govt had notice of the prior mortgage at the time it took the second mortgage then the claim of the mortgagee is stronger than that of Govt. Please refer to these points & if necessary to see into the original bond, please do it.

1. XII. 13

Subd (1) The lands comprising one third of Imam garden below the Karanji Tank in Mysore has been included in the list of properties mortgaged to Govt for the loan - c.f. Go. No. 18025-7 R.7 165-93 d. 23/4/1894 and para 2 3 & 4 of Mysore Dr Consolidated No. 95 dy 20-7-1894.

G

7

(2) Govt is the assignee of the first mortgagee Kanishallam Venkatachar and have therefore prior claim.

E

7. Kind attention is invited to para 29 & 30 of the Office note (37-09) where it was held that the Mortgagee "Narasimha char cannot bring matters to a head by bringing the property to sale for the property is not alienable"

2/12/1913.

NOTE—Contn. sheet.

GPB—60,000—7-11-13

G. R. S. 12]

General and Revenue Secretariat.

Q2 File No. 69 of 1913-14

Serial No.

No. 7643 & 4-12-1913 with 1 Collection & 1 file

& forwarded to the Govt. Advocate for favour of opinion thereon by order of the Chief Secretary to Govt.

4-XII-13

2 files G.O. 26 of 13-14 A-6-12-13.

11/8 (illegible) 8/12

& The claim put forward here is similar to the claim of Sriganna (vide File No. 488-10 Gen. Tui.). There is no reason why Govt. should pay the amount due claimed by Khati Srigrachar. It is obvious that the intention of Govt. in obtaining an assignment of the rights of Kanjhallam Venkatachar was to keep alive the said mortgage & to use it as a shield against the prisne mortgagees in order that it may enure to the benefit of Govt. - Under these circumstances the rights of Govt. as first mortgagee cannot be controlled by any suit at the instance of the petitioner.

10 A prior mortgagee is not a necessary party to an action

NOTE—Contn. sheet.

GPE—60,000—7-11-13

General and Revenue Secretariat. | G.3 File No. 69 of 1913.

Serial No.

by a puisne mortgagee for foreclosure or sale (see Explanation to O 34 R 1 C.P.C), but when a subsequent mortgagee makes a prior mortgagee as well as the owner of the Equity of Redemption parties to the suit, his proceedings so far as the former is concerned becomes an action to redeem. I do not think the Dr. intends making Govt. a party on the footing of a prior mortgagee. His obvious intention is to be redeemed, if possible, by Govt. on the footing of subsequent mortgagees.

5.12.13. Govt. adv.

The pencil verbal alterations I have made in the S.C.'s draft may be adopted

11 Subd. 8/12/13 12 Unless the draft with the alterations suggested by the Govt. Advocate may be approved & the Dr. informed accordingly.

13 Dewan Bdr. I.S. Poonuswamy

I have amended the language & the reply may be approved.

19.2.14. I agree

7069 15.1.14 NCD

NOTE—Contn. sheet.

GRP 60,000—7-11-13

12 Ans for a draft

G. R. S. 12]

General and Revenue Secretariat.

G.7 File No. 69 of 1913-14

Serial No. 15

Draft submitted for approval.

2.31 pm
25/2

16, Insurance

Forms

3. To the Deputy Censor: Mysore &c.
No: Fil: 389 of D 27-2-14

Returns the copy of his dxxbt reply to Singrachar duly approved by Govt:; returns also the two deeds of mortgage and two deed of assignment as well as the notice in original

b

NOTE—Contn. sheet.

GPE—60,000—7-11-13

To

The Dewan of Mysore

Sir

DEWAN'S OFFICE
Date of Receipt 22.10.13
Petn. Regr. No 1633

The most humble and respectful representation of Dhati Singaracharlu, student residing in 194 Rama Vilas Agrahar, is as follows:-

1. That one Krishnappa, son of Sannu Row, of Anche Thippia's family, effected a usufructuary mortgage of 2 plots of garden land, belonging to him and situate beneath the Mysore Karanjee Kere Tank, in favour of one Lachar Annappa, merchant Manoi Mohalla, for a Consideration of Rupees One Thousand Fourhundred, under a registered deed dated 18.10.91 and placed the mortgagee in possession of the property.

2. That the said Annappa, the mortgagee assigned his interest in the mortgage property to my grandfather the late Advocate Narasimhachar, under a registered Deed of Assignment dated 11.12.1905 for a Consideration of Rupees One Thousand five hundred.

3. That my grandfather Narasimhachar aforesaid bequeathed to me, his right as a mortgagee and I am now in possession & enjoyment of the mortgaged property.

4. That subsequent to the mortgage aforesaid, the mortgagor Krishnappa applied to Govt for a loan upon the security of all his property, including the garden plots mentioned above.

5. That the Govt, in their Proceedings Revenue 6.6.1893 and No 18025-7 R.7.165-93 dated Bangalore 23.4.1894 advanced a loan to the said Krishnappa and paid of all his debts excepting the debt due under the mortgage now referred to. The Govt did not clear this mortgage debt and took no possession of the two garden plots.

6 My respectful submission is that I intend to file a suit against the heirs of the said Krishnappa for the recovery of the amount due under the terms of the mortgage bond aforesaid as the period stipulated for payment of the money was only ten years from date of bond.

7 If the Govt or the Public Officer concerned chooses to pay off the mortgage debt and redeem the property, it is well & good. Otherwise I have been advised to make the Subsequent encumbrancer namely the Govt or the Public officer, a party to the Suit.

8 The amount due to me under the terms of the mortgage bond is Rs 1809. [Principal 1400 + Interest of Rs 400. As Interest is also provided for in the bond, inasmuch as the profits of the garden were insufficient to meet the interest calculated on the sum of Rs 1400 the Principal secured by the bond.

9 My respectful submission is that this humble representation may Kindly be treated as Notice under Section 80 Code of Civil Procedure.

10 If, considering that the Govt has paid no money and has not discharged this debt of Krishnappa, the Govt should disclaim any interest in this matter, I most humbly beg to be informed of the same, as early as possible

I have the honour to be
Sir
Your most obedient Servant
Dhati Singaracharlu

20.10.13

1913

From

The Deputy Commissioner
Mysore District

To

The Secy to Govt of
Mysore
Genl and Rev. Depts
Bangalore.

Dated 29.11.13

Despatched 1.12.13.

Received

General No. 374
No.

Enclosure No. 3 and 3 covers

Submits in Original a notice received from Dhati Sujra Char; Explains full particulars and forwards draft reply for approval, Submits two Mortgage deeds relating to the loans granted to Messrs Sannoo Roa and others; further an assignment deed dated the 21st August 1896.

DIARY No. 2087

1913-1914
SECTION 8.7
69-13
No. 2.

GPB—50,000—26-9-12

Rs 374

Office of the Deputy Commissioner,

Mysore District,

Dated, Mysore, 29th November 1913.

From

A.Subramanya Iyer Esquire., B.A.,

Deputy Commissioner, Mysore District.

To

K.P.Sreenivasa Iyengar Esquire., M.A.,

Secretary to the Government of Mysore,

General and Revenue Departments.

Sir,

I have the honour to submit herewith in original a notice dated the 20th October 1913 received from Mr.Dhati Singracnar, residing in Ramavilas Agrahar, Mysore and to state as follows:-

Government in their Proceedings No.317-21 dated the 6th June 1893 sancti ned under the scheme for affording relief to encum ered Jahagirdars a loan of Rs 30,000 in favour of the three branches of Bakshi Thippiah's family for the redemption of their Jahagir properties from their encumbrances.

Out of the loan sanctioned in the above order Government advanced Rs 12782/- to Messrs.Sannoo Rao and other members of the II Branch on the security of the following properties.

i.Inam Hodenur village,Arakalgud Taluk, Hassan District

ii. " Tirunally village, (1/3 portion), Hunsur Taluk

iii. " Padavanakodu Hosahalli (½ portion),Chamarajanagar Tq.

iv. 1/3 of Inam Garden land below Karanji tank, Mysore.

Out of the properties noted above Nos.1,2 and 4 and some others had been hypothecated to one Karighattam Venkatachar in 1882 and No.3 had been hypothecated to Hundi Krishnamachar.

The amount of principal and interest due to the above said creditors on the date of the document executed in favour of Government were as detailed below:-

i.K.Venkatachar---15,583-7-0)		
ii.Hundi Krishnama -char 1663-0-0)		Total Rs 17246-7-0

The sum of Rs 12782/- advanced by Government together with a sum of Rs 4464-7-0 supplied by the members of the family

family was applied towards the settlement of the above dues.

At the time of settlement of the debts, it was found that the garden land which formed one of the properties hypothecated to K.Venkatachar in 1882 was subsequently i.e. in 1891 mortgaged to one Ladar Annappa with possession who claimed a sum of Rs 1682-12-6 including the outlay on improvements. Mr.Sannoo Rao disputed the claim of Ladar Annappa for Rs 1682-11-6 and no amicable settlement was effected between the parties. Further the encumbrances of the garden land including a portion of the previous mortgage (as explained by Mr.Sannoo Rao) was found to more than the estimated value thereof. Ladar Annappa was only a second mortgagee with possession. Therefore it was not thought worth while to pay Annappa or to lose the lien on the property by redeeming the first mortgage outright. To keep therefore, the lien on the garden land alive, the mortgage of Karighattam Venkatachar was taken in assignment by means of a registered deed dated the 21st August 1896.

Advocate Mr.Narasimhachar appears to have taken the property from Ladar Annappa by means of an assignment deed in 1905 for a consideration of Rs 1500.

In connection with the grant of a further loan of Rs 8000/- (sanctioned in G.O.No.Fl.2485-6/G.M.Fl.37-09-19 dated the 19th November 1909) the Inamdars had asked for a loan of Rs 1500 for the redemption of the garden land then in possession of Advocate Mr.Narasimhacgar. As it was found to be an un-enfranchised Inam land and as the mortgagee had not put the Inamdars in court then, no recommendation seems to have been made to Government for its grant ~~securing~~ seeing that the matter was not very urgent.

In July 1911 the Inamdar submitted an application to Government in the Financial Department for a loan of Rs 1100 to redeem the encumbered Inam Garden land and the Government granted him an endorsement to say that no further loan on the security of the garden could be granted.

Since Ladar Annappa himself held a second mortgage of the property, Mr.Narasimhachar does not appear to possess a superior lien in respect of the garden land. Petitioner Dhati Singrachar who states himself to be the grandson of Mr Narasimhachar and claims his property under a will, has now issued a notice to the Deputy Commissioner under section 80 of the Code of Civil Procedure, requesting that the amount due to him under the assignment deed (Viz., Rs 1800/-) may be paid by Government, and in case of nonpayment he would have recourse to law, making the Deputy Commissioner a party to the suit. He further asks Government to disclaim the interest possessed by them in the property on the ground that Govern--ment have not paid anything towards the liquidation of the debt due by the Inamdar to Ladar Annappa. I beg to enclose herein a draft reply proposed to be given to petitioner Dhati Singrachar and to request that the same may be kindly approved or modified if necessary and returned to me for communication to the petitioner. A copy of the ad-interim reply given to Mr.Dhati Singrachar is herein enclosed for the information of Government.

The two mortgage deeds executed by Messrs Sannoo Rao and others in favour of Government and the assignment deed referred to above are herewith submitted in original for favour of perusal and return.

I have the honour to be,

Sir,

Your most obedient Servant,

Deputy Commissioner

Mysore District.

Office of the Deputy Commissioner,

Mysore District,

Dated, Mysore, 29th November 1916.

Encl 6/1 C

Official Memorandum. 89-69-13

To

Mr. Dhati Singrachar,

194, Ramavilas Agrahar, Mysore.

With reference to his petition dated the 20th October 13 requesting to settle his claim against the garden land below the Karanji tank, Mysore, belonging to the ~~family of the~~ late Bakshi Thippiah's Family, the petitioner is informed that ~~long~~ long before the property in question was mortgaged to Ladar Annappa from whom the petitioner's grand-father is stated to have purchased the said mortgage right, the same had been hypothecated to one Karighattam Venkatachar who assigned his ~~r~~ right, title and interest in the property to Government. As assignee of a prior mortgage, ~~and as such~~ Government have a superior lien on the aforesaid property. They are therefore not prepared to satisfy his claim nor to give up the interest they have in the said pro-perty,

Deputy Commissioner

Mysore District.

Office of the Deputy Commissioner,

Mysore District,

Dated, Mysore, 29th November 1913.

Official Memorandum.

Encl 6 & 2

9769-13

To

Mr.Dhati Singrachar,

Student, Residing in 194, Ramavilas Agrahar,

Mysore.

With reference to his petition dated the 20th October 13 praying for the settlement of his claim against the garden land below Karanji tank, Mysore, belonging to the members of the late Bakshi Thippiah's Family etc., Mr.Dhati Singrachar is informed that a reference has been made to ~~the~~ Government in the matter.

Deputy Commissioner

Mysore District.

Encl 1 to 2

List of documents relating to 1769-13

Loan granted to Messrs Samoodao

and other members of the

late Bakshi Shettia's family.

1. Sealed cover containing the mortgage deed dated 14.11.1896. (Other papers enclosed in the cover. 3)

1 do mortgage deed relating to the additional Loan of Rs 8000/-

1 Assignment deed dated 21.8.1896 executed in favor of Government by Mr. Karighattam Venkatachar.

1.12.913.

G.V. [illegible]
Deputy Commissioner
Mysore District

G. R. S. 26]

Q. 7 File No. 69-13

Serial No. 3.

Diary No. of letter replied to 2089

No. H 3899
dt 27 February
Encs 5

General and Revenue Secretariat

( )

, *the* 191 .

To

The Dy Commr,
Mysore Dt.

Date of issue 27-2-14

Signed by W L Narasimhacha

Sir,

Adverting to your letter
No. 3748 29-11-1913 forwarding
original a notice served on
you under Section 80 of the Code of
Civil Procedure by one Dhati
Singrathar, 196, Ramavilas Agrahara
Mysore, claiming from Govt. a sum
of Rs 1500 on account of a mortgage
said executed by him on the garden land
belonging the Karanji Jaula at Mysore

over.

SUBJECT.

belonging to the members of the late
Bakshi Theppiahs family, I am
directed to ~~forward~~ herewith a copy
of the draft reply that may be sent to
the said Superintendent. Mr Ashmore's Ltr

2. The two deeds of mortgage
and the deed of assignment as well
as the notice in original, received
with the letter under reference, are
herewith returned.

I have &c

For Secy.

List of enclosures.

Copied by

Examined by

GPB—25,000—8-8-11.